

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LOTES CO., LTD.,

Plaintiff,

No. C 11-01036 JSW

v.

HON HAI PRECISION INDUSTRY CO.,  
LTD., et al.,

Defendants.

**ORDER REGARDING  
STIPULATION AND  
PLAINTIFF'S MOTION FOR  
PARTIAL STAY AND SETTING  
PARTIAL SUMMARY  
JUDGMENT MOTION**

Now before the Court is the motion to dismiss filed by Plaintiff and Counterclaim Defendant Lotes Company, Ltd. ("Lotes") for a partial stay and to set a partial summary judgment motion, as well as a stipulation between Lotes and Defendants and Counter-claimants Hon Hai Precision Industry Co., Ltd. ("Hon Hai") and Foxconn Electronics, Inc. ("Foxconn") (collectively, "Defendants") relating to the motion. The Court finds that these matters are appropriate for disposition without oral argument and, thus, are deemed submitted. *See* N.D. Civ. L.R. 7-1(b). Accordingly, the hearing set for January 6, 2012 is HEREBY VACATED. Having carefully reviewed the parties' papers and considering their arguments and the relevant authority, and good cause appearing, the Court hereby grants in part and denies in part Lotes' motion and grants as modified the parties' stipulation.

The Court HEREBY STAYS this action as to all claims and counterclaims relating to U.S. Patent Nos. 6,908,316 (the "'316 Patent"), 6,135,791 (the "'791 Patent"), 6,530,798 (the "'798 Patent"), 6,905,353 (the "'353 Patent"), 7,371,075 (the "'075 Patent"), 5,882,211 (the

1 “‘211 Patent’), 6,113,398 (the “‘398 Patent’), and 6,679,717 (the “‘717 Patent’)) (collectively  
2 referred to as the “Newly Asserted Patents”) pending reexamination proceedings for the Newly  
3 Asserted Patents that have been filed on or before November 30, 2011. The stay shall remain in  
4 effect until the reexamination proceedings, including any appeals, are completed and the  
5 reexamination decisions are final. This Order is without prejudice to either party filing a  
6 motion to lift the stay earlier upon a showing of good cause. The parties shall submit a joint  
7 status report regarding the status of the reexamination proceedings every 120 days, or sooner if  
8 the PTO issues a final decision with respect to the Newly Asserted Patents, until the stay is  
9 lifted.

10 The Court FURTHER ORDERS that the parties may file a motion for partial summary  
11 judgment to address the following three issues: (1) enforce ability of the covenant not to  
12 challenge; (2) scope of the licenced products subject to the Patent License Agreement; and (3)  
13 burden of proof of infringement. Lotes may file one motion for partial summary judgment  
14 addressing these issues no longer than twenty-five pages by March 20, 2012. By April 3, 2012,  
15 Defendants may file their opposition and cross-motion for partial summary judgment in a brief  
16 which shall be no longer than thirty pages. By April 17, 2012, Lotes may file an opposition to  
17 Defendants’ motion and a reply in support of their motion in one brief which shall be no longer  
18 than twenty pages. By April 24, 2012, Defendants may file a reply of no longer than fifteen  
19 pages. Upon showing of good cause, the parties may request an extension of these page limits.  
20 The hearing on the cross-motions for partial summary judgment is HEREBY SCHEDULED for  
21 May 11, 2012 at 9:00 a.m.<sup>1</sup>

22 The Court FURTHER ORDERS the parties may engage in discovery related to the  
23 above three issues. Written discovery requests must be served by January 11, 2011 and may be  
24 served by email. Each side may propound no more than fifteen requests for production of  
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26 <sup>1</sup> Pursuant to this Court’s Standing Order ¶ 9, “[a]bsent a showing of good cause, the  
27 Court will address only one motion for summary judgment per party or side.” The allowance  
28 of this partial motion for summary judgment is not a determination that the parties have  
shown good cause for multiple motions for summary judgment. If, at a later date, any party  
seeks to file an additional motion for summary judgment, they must make a showing of good  
cause in accordance with the Court’s Standing Order.

1 documents and fifteen interrogatories. The parties may each notice one deposition pursuant to  
2 Rule 30(b)(6) by no later than February 10, 2012 and the depositions must be completed by  
3 March 5, 2012. Pursuant to Local Rule 72-1, all discovery disputes in this matter are HEREBY  
4 REFERRED to a randomly assigned magistrate judge for resolution. Upon a showing of good  
5 cause, the parties may seek additional discovery related to these three issues.

6 **IT IS SO ORDERED.**

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8 Dated: January 4, 2012

  
JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

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11 cc: Magistrate Referral Clerk  
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